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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,223	04/09/2001	Edward J. Koplar	55121-88021	8583

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,223

Applicant(s)

KOPLAR ET AL.

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/16/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,22,26,27,31,32 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,22,26,27,31,32 and 40-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1st 2</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 26, 27, 31, 32, 40 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Nemirofsky (US 5,953,047 – cited by Applicants).

Regarding claims 21 and 26, Nemirofsky discloses a television signal activated interactive smart card method and system for visually transmitting auxiliary data from a monitor for a computer system (see col 3 lines 41 – 47) to a handheld smart card (see col 7 lines 20 – 43) having an optical detector (col 3 lines 42 – 47 and col 7 lines 20 – 43). The auxiliary data is transmitted from the monitor to the handheld device by facing or 'manipulating' the handheld device to the monitor (see col 11 lines 15 – 23).

Nemirofsky further discloses transmitting the auxiliary data from the display device to the hand-held device periodically or at 'discrete times' during the video presentation when Card logo or icon is displayed (see col 11 lines 16 – 24).

Nemirofsky further discloses the auxiliary data is modulated and thus inherently is demodulated to provide the auxiliary data enabling a user to take the card to a point of

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sale to purchase a product (see col 6 lines 43 – 48, col 7 lines 37 – 43, col 11 lines 23 – 32).

Nemirofsky discloses transmitting a graphic video image i.e. UPC code to hand held smart card wherein the bar codes can be displayed (see col 11 lines 20 - 50). It is noted that according to the Microsoft Press Computer Dictionary, Third Edition, video, in relation to computers and computer systems, is defined as rendering of text and graphic images on a display

Nemirofsky further discloses while the TV cardholder is watching television, the TV Card Logo or icon is periodically displayed on the screen indicating that the card-readable data is available thus Nemirofsky discloses the claimed “selectively initiating the execution of an application program available on the computer system that broadcasts a visual image on the monitor signifying presence of the auxiliary data”.

Nemirofsky discloses receiving the optical data on the handheld smart card via an optical detector (see col 3 lines 42 – 47 and col 7 lines 20 – 43).

Nemirofski discloses the processing the received auxiliary data and providing promotional opportunities which can be redeemed at a point of sale, wherein the promotional opportunities include money, discounts, value, UPC codes etc, (see col 11 lines 23 – 48).

Regarding claim 27, Nemirofsky discloses the program or ‘application program’ on a video recording device for reading by the smart card at a later time (see col 4 lines 30 – 35). It is noted that program is stored in a memory in the computer system,

wherein the computer system links the storage to the handheld device, as a result, Nemirofsky teaches the claimed limitation.

Regarding claim 31, Nemirofsky discloses television activated interactive smart card system used for the redemption of promotional opportunities including money, discounts, value, UPC codes etc. (see col 11 lines 23 – 48).

Nemirofsky discloses the smart card comprises a microprocessor 20 (see fig 5) embedded in the card, a random access memory 30 and programmable memory 26 electronically connected to the microprocessor 20, and liquid crystal display 42 electronically connected to microprocessor 20 and random access memory 30 and programmable memory 26.

Nemirofsky further discloses a user interaction means electronically connected to the microprocessor, memory and visual display, wherein the user interaction means are met by the buttons in fig 7 (i.e. view buttons 32A).

Nemirofsky further discloses a photodetector / scan detector being electrically coupled to microprocessor 20 and memory 36 and 30 (see fig 5), the photo detector is capable of detecting light form a conventional bar code scanner (see col 8 lines 57 – 60, col 9 lines 30 – 33, col 11 lines 23 – 52).

Nemirofsky further discloses a laser detection triggering means met by the photo detector / scan detector 150 which electronically connected to the photodetector in 150 or 70 (see col 14 lines 50 – 55, col 7 lines 58 – 61, fig 5).

Regarding claim 32, Nemirofsky discloses providing an electronic smart card, the electronic smart card comprising a visual LCD 42, a photodetector 70 and 150 and

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barcode triggering means met by scan detector in 150 (see col 7 lines 37 – 43, col 7 lines 58 – 67, col 9 lines 30 – 34, col 11 lines 23 – 50, col 14 lines 50 – 60). It is noted that the card has multiple uses such as benefit or values from money, discounts, redemption limits, UPC, coupons etc. (see col 11 lines 23 – 32) or can even by values from a bar code sequence (see col 4 lines 6 – 10, fig 7 – see bar code values shown in LCD 42).

Nemirofsky further discloses that the electronic value is obtained by facing or 'orienting' the smart card to the television for the reception of the electronic value from the television display via a photodetector for storing the electronic value data on the electronic multi-use card (see col 11 lines 23 – 50).

Nemirofsky discloses the stored data can be displayed and read by a terminal at redemption venue like supermarket, department store etc. (see col 3 lines 51 – 55). It is noted that Nemirofsky discloses the simultaneous displaying and reading. Nemirofsky further discloses the data can be value data (see col 11 lines 23 – 32). Nemirofsky further discloses the simultaneous viewing and scanning of bar code values (see col 11 lines 42 – 50).

Nemirofsky further discloses transporting the electronic multi-use card to a point of sale having associated therewith a computer system with a barcode scanner and entering at the point of sale the promotional opportunities into the computer system (see col 11 lines 23 – 50, col 14 lines 50 – 60).

Regarding claim 40, Nemirofsky discloses modulating the auxiliary data in a substantially invisible way as the signal (see col 6 lines 43 – 49).

Regarding claim 42, Nemirofsky discloses the claimed notifying the user of receipt of auxiliary data on the hand-held device (see col 11 lines 20 – 23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nemirofsky (US 5,953,047 – cited by Applicants) in view of Kessler (US 4,503,288).

Regarding claim 22, Nemirofsky discloses the claimed receiver is a photosensor as discussed above but fails to disclose the claimed wherein the video signal is a composite video signal.

In analogous art, Kessler teaches a composite video signal may be generated to expand the display capabilities of portable device (see col 2 lines 16 - 22). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nemirofsky to include the claimed limitation for the benefit of expanding the display capabilities.

Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemirofsky (US 5,953,047 – cited by Applicants).

Regarding claim 41, Nemirofsky discloses US Patent 4,807,031 teaches the use of an interactive relay station at the TV set wherein the TV light is picked up near the TV set and re-transmitted via light, visible or IR, radio or other means (see col 13 lines 23 – 32) but fails to disclose the claimed selecting a radio signal with auxiliary data as the signal. Official notice is taken, as supported by US patent 4,807,031, that transmitting auxiliary data via a radio signal would have been well known in the art as conventional and reliable means for transmitting data. Therefore, it would have been obvious to modify Nemirofsky to include the claimed limitation to provide transmitting of data via conventional, well-established and reliable means.

Regarding claim 43, Nemirofsky discloses an advertising video presentation for an object which can be purchased at a point of sale but fails to disclose the claimed selecting a musical presentation as the video presentation and a compact disc as the object.

Official Notice is taken it would have been well known in the art to provide a musical advertisement as a video presentation for advertising a compact disc to provide a user with information as to the availability of the compact disc and a sample of the music of the compact disc to help a user determine if the music and compact disc is pleasing to user to see if the compact disc is one the user would want to purchase. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nemirofsky to include the claimed limitation to provide

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a user with musical sample of music contained on a compact disc which is available for sale.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hayes et al (US 6,223,348) – Universal remote control system

Holmon (US 5,287,181) – Electronic redeemable coupon system and television


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
8/15/05



VIVEK SRIVASTAVA
PRIMARY EXAMINER